UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI

Mary Girsch-Bock,		: : Civil Action No.:
v.	Plaintiff,	: :
Medicredit, Inc.,	Defendant.	: COMPLAINT
		:

For this Complaint, Plaintiff, Mary Girsch-Bock, by undersigned counsel, states as follows:

JURISDICTION

- 1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
- 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

- 3. Plaintiff, Mary Girsch-Bock ("Plaintiff"), is an adult individual residing in Rio Rancho, New Mexico, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3) and is a "person" as defined by 47 U.S.C. § 153(39).
- 4. Defendant Medicredit, Inc. ("Medicredit"), is a Missouri business entity with an address of 3 Cityplace Drive, Suite 6900, St. Louis, Missouri 63141, and is a "person" as defined by 47 U.S.C. § 153(39).

ALLEGATIONS APPLICABLE TO ALL COUNTS

- 5. In or around December 2015, Medicredit began calling Plaintiff's cellular telephone, number 817-xxx-2645, using an automatic telephone dialing system ("ATDS").
- 6. When Plaintiff answered calls from Medicredit, she heard silence followed by an automated click before the call was transferred to a Medicredit operator.
- 7. On or about December 10, 2015, Plaintiff spoke with Medicredit and requested that all calls to her cellular telephone number cease.
- 8. Nevertheless, Medicredit continued to place automated calls to Plaintiff's cellular telephone number.

A. Plaintiff Suffered Actual Damages

- 9. Plaintiff has suffered and continues to suffer actual damages as a result of Defendant's unlawful conduct.
- 10. As a direct consequence of Defendant's acts, practices and conduct, Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.

- 11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 12. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer.
- 13. In expanding on the prohibitions of the TCPA, the Federal Communications

 Commission ("FCC") defines a predictive dialer as "a dialing system that automatically dials

 consumers' telephone numbers in a manner that "predicts" the time when a consumer will

answer the phone and a [representative] will be available to take the call..."2003 TCPA Order, 18 FCC 36 Rcd 14022. The FCC explains that if a representative is not "free to take a call that has been placed by a predictive dialer, the consumer answers the phone only to hear 'dead air' or a dial tone, causing frustration." *Id.* In addition, the TCPA places prohibitions on companies that "abandon" calls by setting "the predictive dialers to ring for a very short period of time before disconnecting the call; in such cases, the predictive dialer does not record the call as having been abandoned." *Id.*

- 14. Defendant's telephone systems have all the earmarks of a predictive dialer.
- 15. When Plaintiff answered calls from Defendant, she heard silence before Defendant's telephone system would connect her to the next available representative.
- 16. Defendant's predictive dialers have the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.
- 17. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).
- 18. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.
- 19. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).
- 20. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
- 21. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- 1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C); and
- 2. Such other and further relief that the Court may deem just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 14, 2016

Respectfully submitted,

By: __/s/ Sergei Lemberg_____

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